

Office of the Assistant Secretary, HUD

§ 965.701

§ 965.508 Individual relief.

Requests for relief from surcharges for excess consumption of PHA-purchased utilities, or from payment of utility supplier billings in excess of the allowances for resident-purchased utilities, may be granted by the PHA on reasonable grounds, such as special needs of elderly, ill or disabled residents, or special factors affecting utility usage not within the control of the resident, as the PHA shall deem appropriate. The PHA's criteria for granting such relief, and procedures for requesting such relief, shall be adopted at the time the PHA adopts the methods and procedures for determining utility allowances. Notice of the availability of such procedures (including identification of the PHA representative with whom initial contact may be made by residents), and the PHA's criteria for granting such relief, shall be included in each notice to residents given in accordance with § 965.502(c) and in the information given to new residents upon admission.

Subpart F—Physical Condition Standards and Physical Inspection Requirements

§ 965.601 Physical condition standards; physical inspection requirements.

Housing owned or leased by a PHA, and public housing owned by another entity approved by HUD, must be maintained in accordance with the physical condition standards in 24 CFR part 5, subpart G. For each PHA, HUD will perform an independent physical inspection of a statistically valid sample of such housing based upon the physical condition standards in 24 CFR part 5, subpart G.

[63 FR 46580, Sept. 1, 1998]

Subpart G [Reserved]

Subpart H—Lead-Based Paint Poisoning Prevention

§ 965.701 Lead-based paint poisoning prevention.

The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-

Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at part 35, subparts A, B, L, and R of this title apply to this program.

[64 FR 50229, Sept. 15, 1999]

EFFECTIVE DATE NOTE: At 64 FR 50229, Sept. 15, 1999, Subpart H—Lead-Based Paint Poisoning Prevention was revised, effective Sept. 15, 2000. For the convenience of the user, the superseded text is as follows:

Subpart H—Lead-Based Paint Poisoning Prevention

SOURCE: 51 FR 27789, Aug. 1, 1986, unless otherwise noted.

§ 965.701 Purpose and applicability.

The purpose of this subpart is to implement the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846) by establishing procedures to eliminate as far as practicable the immediate hazards from the presence of paint that may contain lead in PHA-owned housing assisted under the United States Housing Act of 1937. This subpart applies to PHA-owned lower-income public housing projects, including Turnkey III, conveyed Lanham Act and Public Works Administration projects, and to section 23 Leased Housing Bond-Financed projects. This subpart does not apply to projects under the Section 23 and Section 8 Housing Assistance Payments programs, or to Indian Housing. This subpart is promulgated pursuant to the authorization granted in 24 CFR 35.24(b)(4) and supersedes, with respect to all housing to which it applies, the requirements prescribed by subpart C of 24 CFR part 35.

[57 FR 28358, June 24, 1992]

§ 965.702 Definitions.

Applicable surface. All intact and nonintact interior and exterior painted surfaces of a residential structure.

Defective lead-based paint surface. Paint on applicable surfaces having a lead content of greater than or equal to 1 mg/cm², that is cracking, scaling, chipping, peeling or loose.

Defective paint surface. Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

Elevated blood lead level or EBL. Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

Family project. Any project assisted under section 9 of the U.S. Housing Act of 1937 which is not an elderly project. For this purpose, an elderly project is one which was designated for occupancy by the elderly at its

§ 965.701

inception (and has retained that character) or, although not so designated, for which the PHA gives preference in tenant selection (with HUD approval) for all units in the project to elderly families. A building within a mixed-use project which meets these qualifications shall, for purposes of this subpart, be excluded from any family project. Zero bedroom units, for purposes of this subpart, are excluded from any family project.

Lead-based paint. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1.0 mg/cm², or .5% by weight.

[51 FR 27789, Aug. 1, 1986, as amended at 53 FR 20802, June 6, 1988; 56 FR 15174, Apr. 15, 1991]

§ 965.703 Notification.

(a) *General LBP Hazard Notification for all Residents.* Tenants in PHA-owned low income public housing projects constructed prior to 1978 shall be notified:

- (1) That the property was constructed prior to 1978;
- (2) That the property may contain lead-based paint;
- (3) Of the hazards of lead-based paint;
- (4) Of the symptoms and treatment of lead-based paint poisoning;
- (5) Of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards); and
- (6) Of the advisability and availability of blood lead level screening for children under seven years of age.

Tenants shall be advised to notify the PHA if an EBL condition is identified.

(b) *Lead-Based Paint Hazard Notification for Applicants and Prospective Purchasers.* A notice of the dangers of lead-based paint poisoning and a notice of the advisability and availability of blood lead level screening for children under seven years of age shall be provided to every applicant family at the time of application. The applicant family shall be advised, if screening is utilized and an EBL condition identified, to notify the PHA.

(c) *Notification of Positive Lead-Based Paint Test Results.* In the event that a PHA-owned low income public housing project constructed or substantially rehabilitated prior to 1978 is tested and the test results using an x-ray fluorescence analyzer (XRF) are identified as having a lead content greater than or equal to 1.0 mg/cm², or is tested by laboratory chemical analysis (atomic absorption spectroscopy (AAS)) and found to contain .5% lead by weight or more, the PHA shall provide written notification of such result to the current residents, applicants, prospective purchasers, and homebuyers of such units in a timely manner. The PHA shall retain written records of the notification.

24 CFR Ch. IX (4-1-00 Edition)

[51 FR 27789, Aug. 1, 1986, as amended at 56 FR 15174, Apr. 15, 1991]

§ 965.704 Maintenance obligation.

In family projects constructed prior to 1978 or substantially rehabilitated prior to 1978, the PHA shall visually inspect units for defective paint surfaces as part of routine periodic unit inspections. If defective paint surfaces are found, covering or removal of the defective paint spots as described in § 35.24(b)(2)(ii) of this title shall be required. Treatment shall be completed within a reasonable period of time.

[53 FR 20802, June 6, 1988]

§ 965.705 Insurance coverage.

For the requirements concerning a PHA's obligation to obtain reasonable insurance coverage with respect to the hazards associated with testing for and abatement of lead-based paint, see § 965.215.

[59 FR 31930, June 21, 1994]

§ 965.706 Procedures involving EBLs.

(a) *Procedures where a current resident child has an EBL.* When a child residing in a PHA-owned low income family project has been identified as having an EBL, the PHA shall: (1) Test all surfaces in the unit and applicable surfaces of the PHA-owned or operated child care facility if used by the EBL child for lead-based paint and abate the surfaces found to contain lead-based paint. Testing of exteriors and interior common areas (including non-dwelling PHA facilities which are commonly used by the EBL child under seven years of age) will be done as considered necessary and appropriate by the PHA and HUD; or (2) assign the family to a post-1978 or previously tested unit which was found to be free of lead-based paint hazards or in which such hazards have been abated as described in this section.

(b) *Procedures where a non-resident child using a PHA-owned or operated child care facility has an EBL.* When a non-resident child using a PHA-owned or operated child facility has been identified as having an EBL, the PHA shall test all applicable surfaces of the PHA-owned or operated child care facilities and abate the surfaces found to contain lead-based paint.

(c) *Testing.* Testing shall be completed within five days after notification to the PHA of the identification of the EBL child. It is strongly recommended, but not required, that PHAs use the testing methods outlined in the Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (Lead-Based Paint Interim Guidelines) for the Comprehensive Improvement Assistance Program (CIAP), and other Public and Indian Housing programs, and issued and published at 55 FR 14555, April 18, 1990, part II, with an

amendment of chapter 8 and typographical clarifications at 55 FR 39874, as periodically amended or updated, and other future official departmental issuances related to lead-based paint. A qualified inspector or laboratory shall certify in writing the precise results of the inspection. Testing services available from State, local or tribal health or housing agencies or an organization recognized by HUD shall be utilized to the extent available. If the results equal or exceed a level of 1 mg/cm² or .5% by weight, the results shall be provided to the tenant or the family of the EBL child using PHA owned or operated child care facilities. Testing will be considered an eligible modernization cost under part 968 only upon PHA certification that testing services are otherwise unavailable.

(d) *Hazard abatement requirements*—(1) *Abatement actions.* Hazard abatement actions shall be carried out in accordance with the following requirements and order of priority:

(i) Unit housing a child with an EBL. Any surface in the unit found to contain lead-based paint shall be treated. Where full treatment of a unit housing an EBL child cannot be completed within five days after positive testing, emergency intervention actions (including removing defective lead-based paint and scrubbing surfaces after such removal with strong detergents) shall be taken within such time. Full treatment of a unit housing an EBL child shall be completed within 14 days after positive testing, unless funding sources are not immediately available. In such event, the PHA may use its operating reserves and, when necessary, may request reimbursement from the current fiscal year CIAP funds, or request the reprogramming of previously approved CIAP funds.

(ii) PHA owned or operated child care facilities used by a child with an EBL. Any applicable surface found to contain lead-based paint shall be treated.

(iii) Interior common areas (including non-dwelling PHA facilities which are commonly used by EBL children under seven years of age) and exterior surfaces of projects in which children with EBLs reside. Abatement shall be provided to all surfaces containing lead-based paint.

(2) *Abatement methods.* PHAs shall select a safe and cost effective treatment for surfaces found to contain lead-based paint, including clean-up procedures, and are strongly encouraged, but not required, to follow those methods specified in the Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (Lead-Based Paint Interim Guidelines), and other future official departmental issuances relating to lead-based paint abatement in effect at the time the surfaces are to be abated. Certain prohibited abatement methods are set forth in 24 CFR 35.24(b)(2)(ii).

Final inspection and certification of the treatment shall be made by a qualified inspector, industrial hygienist, or local health official based on clearance levels specified in HUD departmental issuances and guidelines.

[53 FR 20803, June 6, 1988, as amended at 56 FR 15175, Apr. 15, 1991]

§ 965.707 Tenant protection.

The PHA shall take appropriate action in order to protect tenants, including children with EBLs, other children, and pregnant women, from hazards associated with abatement procedures, and is strongly encouraged, but not required, to take actions more fully outlined in the Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (Lead-Based Paint Interim Guidelines) and other future official Departmental issuances related to tenant protection in effect at the time the abatement procedure is undertaken. Tenant relocation may be accomplished with CIAP assistance.

[56 FR 15175, Apr. 15, 1991]

§ 965.708 Disposal of lead-based paint debris.

The PHA shall dispose of lead-based paint debris in accordance with applicable local state or Federal requirements. (See *e.g.*, 40 CFR parts 260 through 271.) Additional information covering disposal practices is contained in the Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (Lead-Based Paint Interim Guidelines) and other future official departmental issuances relating to lead-based paint. In any event, EPA has primary responsibility for waste disposal regulations and procedures.

[53 FR 20803, June 6, 1988, as amended at 56 FR 15175, Apr. 15, 1991]

§ 965.709 Records.

The PHA shall maintain records on which units, common areas, exteriors and PHA child care facilities have been tested, results of the testing, and the condition of painted surfaces by location in or on the unit, interior common area, exterior surface or PHA child care facility. The PHA shall report information regarding such testing, in accordance with such requirements as shall be prescribed by HUD. The PHA shall also maintain records of abatement provided under this subpart, and shall report information regarding such abatement, and its compliance with the requirements of 24 CFR part 35, subpart A and § 965.703 of this part, in accordance with such requirements as shall be prescribed by HUD. If records establish that a unit, PHA owned or operated child care facility, exterior or interior common area was tested or treated in accordance with the

§ 965.800

standards prescribed in this subpart, such units, child care facilities, exterior or interior common areas are not required to be re-tested or re-treated.

(Information collection requirements contained in this section were approved by the Office of Management and Budget under control number 2577-0090)

[53 FR 20803, June 6, 1988, as amended at 56 FR 15175, Apr. 15, 1991]

§ 965.710 Compliance with state and local laws.

(a) *PHA responsibilities.* Nothing in this subpart H is intended to relieve a PHA of any responsibility for compliance with state or local laws, ordinances, codes or regulations governing lead-based paint testing or hazard abatement. The PHA shall maintain records evidencing compliance with applicable state or local requirements, and shall report information concerning such compliance, in accordance with such requirements as shall be prescribed by HUD.

(b) *HUD responsibility.* If HUD determines that a state or local law, ordinance, code or regulation provides for lead-based paint testing or hazard abatement in a manner which provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of this subpart and that adherence to the requirements of this subpart would be duplicative or otherwise cause inefficiencies, HUD may modify or waive the requirements of this subpart in such manner as may be appropriate to promote efficiency while ensuring such comparable level or protection.

(Approved by the Office of Management and Budget under control number 2577-0090)

[51 FR 27789, Aug. 1, 1986. Redesignated at 53 FR 20803, June 6, 1988]

§ 965.711 Monitoring and enforcement.

PHA compliance with the requirements of this subpart will be included in the scope of HUD monitoring of PHA operations. Non-compliance with any requirement of this subpart may subject a PHA to sanctions provided under the Annual Contribution Contract or to enforcement by other means authorized by law.

[51 FR 27789, Aug. 1, 1986. Redesignated at 53 FR 20803, June 6, 1988]

Subpart I—Fire Safety

SOURCE: 57 FR 33853, July 30, 1992, unless otherwise noted.

24 CFR Ch. IX (4-1-00 Edition)

§ 965.800 Applicability.

This subpart applies to all PHA-owned or -leased housing housing, including Mutual Help and Turnkey III.

§ 965.805 Smoke detectors.

(a) *Performance requirement.* (1) After October 30, 1992, each unit covered by this subpart must be equipped with at least one battery-operated or hard-wired smoke detector, or such greater number as may be required by state or local codes, in working condition, on each level of the unit. In units occupied by hearing-impaired residents, smoke detectors must be hard-wired.

(2) After October 30, 1992, the public areas of all housing covered by this subpart must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors to serve as adequate warning of fire. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

(b) *Acceptability criteria.* (1) The smoke detector for each individual unit must be located, to the extent practicable, in a hallway adjacent to the bedroom or bedrooms. In units occupied by hearing-impaired residents, hard-wired smoke detectors must be connected to an alarm system designed for hearing-impaired persons and installed in the bedroom or bedrooms occupied by the hearing-impaired residents. Individual units that are jointly occupied by both hearing and hearing-impaired residents must be equipped with both audible and visual types of alarm devices.

(2) If needed, battery-operated smoke detectors, except in units occupied by hearing-impaired residents, may be installed as a temporary measure where no detectors are present in a unit. Temporary battery-operated smoke detectors must be replaced with hard-wired electric smoke detectors in the normal course of a PHA's planned CIAP or CGP program to meet the required HUD Modernization Standards or state or local codes, whichever standard is stricter. Smoke detectors for units occupied by hearing-impaired